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TOWN CLERK, ACTON

## ACTON PLANNING BOARD

### Minutes of Meeting August 17, 2010 Acton Town Hall, Faulkner Room (204)

Planning Board members Mr. Ryan Bettez (Chairman), Mr. Jeff Clymer (Vice Chairman), Mr. Ray Yacouby (Clerk), Mr. Roland Bourdon, Ms. Leigh Davis-Honn, Ms. Margaret Woolley Busse, Ms. Kim Montella, and associate members Gregory Niemyski and Mr. Derrick Chin attended. Also present was Assistant Planner, Ms. Kristin Alexander.

Meeting was called to order at 7:35 PM.

#### **I. Citizens Concerns**

None raised.

#### **II. Consent Agenda**

Consent Item A. Minutes of 07/20/2010, Mr. Clymer moved to pass the consent agenda item. Mr. Niemyski 2<sup>nd</sup>; all voted in favor.

#### **III. Reports**

CPC: Mr. Bourdon reported the next meeting will be September 9, 2010 and will include a public hearing on the Draft 2011 Community Preservation Plan.

WRAC: Mr. Clymer reported that WRAC is working on a Bylaw that includes proposed amendments for the Subdivision Rules and Regulations to reflect changes in state storm water requirements.

Acton 2020: Ms. Woolley Busse stated that the committee is working on a website to be launched in September and is establishing advisory groups to work on Phase I Report goals. Ms. Woolley Busse stated that the first Acton 2020 public workshop will be October 20<sup>th</sup>. She said that if the Planning Board members know people interested in participating on an advisory group or attending the workshop, have them contact her.

#### **IV. 144 Great Road (Powers Gallery) Sign Special Permit – Public Hearing**

Mr. Bettez opened the public hearing at 7:45 PM. Mr. Larry Powers of 144 Great Road, Powers Gallery, presented his request for a sign special permit to allow a freestanding sign at 144 Great Road larger in display area than what is allowed under the Acton Zoning Bylaw. Mr. Powers said the new freestanding sign would be 6 feet 6 inches high, 17 ½ square feet in display area (3 ½ feet x 5 feet), consist of black background with gold lettering, replace the existing freestanding sign, and be placed in a slightly different location: further from the building; in the grass between the bushes. Mr. Powers stated he is requesting a special permit because he wants to install a sign in better condition than the existing sign and wants a larger sign to provide more visibility for the business. Mr. Powers said he would want the freestanding sign to be illuminated.

Board members asked general clarification questions. Ms. Alexander stated that the sign lighting would have to be aimed downward and comply with the Acton Zoning Bylaw.

Mr. Bettez closed the public hearing. Mr. Bourdon moved to grant the sign special permit request as presented. Mr. Yacouby 2<sup>nd</sup>; and all voted in favor.

#### **V. Wireless Communication Facility Special Permit – Continuation of Public Hearing**

Mr. Bettez opened the public hearing (continued from 6/08/10) at 8:15 PM.  
Mr. Bettez announced that only new information should be presented.  
No new information was presented.

Mr. Kevin S. Eriksen, Esq. from Deschenes & Farrell, P.C., representative for the applicant, spoke briefly about the application. Mr. Eriksen clarified that the applicant has investigated the ADESA Concord site and it is not a viable site for the applicant. Mr. Eriksen directed the Planning Board to the letter from Clearwire's Counsel, Ms. Jane Whang, to Town Counsel, Ms. Sara Schnorr, dated July 26, 2010, providing Ms. Whang's analysis of the applicability of 47 U.S.C. Section. 332(c)(7) to Clearwire's proposed installation of facilities at 5-7 Craig Road. Mr. Eriksen stated that he thought the public hearing process has been productive and has resulted in a stronger application. Mr. Eriksen also said: there is a significant gap in coverage, the applicant has conducted an extensive alternative site analysis demonstrating that 5-7 Craig Road is the only viable alternative to fill the significant gap in coverage, the proposal meets the performance standards of the Bylaw, space would be provided on the tower for Town of Acton facilities, and it is appropriate to close the hearing tonight and approve the proposal.

Mr. Yacouby moved to close the hearing, Mr. Niemyski 2<sup>nd</sup>; all voted in favor.

Mr. Clymer stated that he heard all the information, reviewed Town Counsel's memo, and he does not believe Clearwire is a personal wireless services provider; therefore, Clearwire cannot apply under the Acton Zoning Bylaw.

Ms. Woolley Busse said that both Town Counsel's letter and Clearwire's Counsel's letter are compelling and need to be considered.

Mr. Yacouby agreed that both Counsels' letters are compelling but Town Counsel has responded twice and he agrees with Town Counsel.

Mr. Bettez stated that Town Counsel's argument is more compelling.

Ms. Woolley Busse stated that the FCC's determination on this issue is a moving target. Ms. Woolley Busse said that she appreciates the abutters being proactive because they brought forward issues related to the application that might not have otherwise been considered during the hearing process.

Mr. Bourdon said he agrees with Town Counsel's opinion.

Mr. Clymer stated that Town Counsel's letter is clear and compelling, and Town Counsel is not for or against the application.

Mr. Niemyski said he concurs with Town Counsel's opinion.

Ms. Montella stated that Town Counsel made it very clear in her letter that Clearwire is not a personal wireless services provider.

Mr. Chin said he agrees that Town Counsel's letter made it extremely clear that Clearwire is not a personal wireless services provider.

Mr. Niemyski moved that the Planning Board direct Town staff to draft a decision of denial of the Wireless Communication Facility Special Permit application from SBA Towers for 5-7 Craig Road; Mr. Bourdon 2<sup>nd</sup>. Six voted in favor; one abstained; motion passed.

Motion was made to close the meeting, 2<sup>nd</sup>; all in favor; meeting adjourned at 8:45 PM.



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<input type="checkbox"/>	Additional Information - Received on or prior to 06.08.2010 meeting	kalexander	07/19/10	0	
<input type="checkbox"/>	Additional Information - Received on or prior to 07.06.2010 meeting	planning	07/19/10	2	
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<input type="checkbox"/>	Confidential Folder	kalexander	06/30/10	3	
<input type="checkbox"/>	00 - 08.17.2010 PB Agenda	planning	08/13/10	50 KB	
<input type="checkbox"/>	020A - IIA - 07.20.2010 PB Minutes - DRAFT	planning	08/12/10	53 KB	
<input type="checkbox"/>	040 - IV - 144 Great Road - Powers Gallery Sign Permit Application	planning	07/19/10	662 KB	
<input type="checkbox"/>	041A - IV - 144 Great Road Powers Gallery Sign - Sign with Dimensions Shown	kalexander	08/17/10	400 KB	
<input type="checkbox"/>	041B - IV - 144 Great Road Powers Gallery Sign - Example of the Sign	kalexander	08/17/10	313 KB	
<input type="checkbox"/>	042 - IV - 144 Great Road Powers Gallery Sign - Department Staff Comments	planning	08/13/10	1 MB	
<input type="checkbox"/>	046 - IV - 144 Great Road Powers Gallery Sign - Engineering Dept. Comments	planning	08/13/10	15 KB	
<input type="checkbox"/>	048 - IV - 144 Great Road Powers Gallery Sign - Planning Dept. Comments	planning	08/13/10	736 KB	
<input type="checkbox"/>	049 - IV - 144 Great Road Powers Gallery Sign - Alexander e-mail regarding historic review - 8-17-10	kalexander	08/17/10	1013 KB	
<input type="checkbox"/>	050 - V - REQUEST FOR CONTINUATION to 08.17.2010 Meeting re: Craig Road Cell Tower	planning	08/13/10	42 KB	
<input type="checkbox"/>	050A - V - Continuation and extension agreement 7.6.10	planning	07/19/10	20 KB	
<input type="checkbox"/>	051A - V - PB Memo to Selectmen re: Cell Tower at 8 Forest Road	kalexander	06/25/10	4 MB	
<input type="checkbox"/>	051B - V - Steve Ledoux's Response Letter - 8 Forest Road	kalexander	06/25/10	54 KB	
<input type="checkbox"/>	052A - V - Michael Maglothin comments and map - Adesa Request	kalexander	06/25/10	176 KB	
<input type="checkbox"/>	052B - V - Adessa - Response Letter	kalexander	06/25/10	14 KB	
<input type="checkbox"/>	053A - V - Status of Future and Proposed Sites (staff email)	kalexander	07/01/10	167 KB	
<input type="checkbox"/>	053B - V - Tower Height Tension (staff email)	planning	07/01/10	262 KB	
<input type="checkbox"/>	054 - V - Acton - Clearwire CA attorney letter describing Clearwire	kalexander	06/30/10	707 KB	
<input type="checkbox"/>	055A.1 - V - Fred Tipton's email - Tower Alternative - Femtocells	kalexander	07/01/10	28 KB	
<input type="checkbox"/>	055A.2 - V - Femtocells - Natural Solution for Offload	kalexander	07/01/10	635 KB	
<input type="checkbox"/>	055B - V - Fred Tipton's email - Cisco/At&T Device	kalexander	07/01/10	57 KB	
<input type="checkbox"/>	056 - V - Planning Dept. Comments - SBA Towers PWF - 5 Craig Road	planning	07/01/10	53 KB	

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<input type="checkbox"/>		055B - V. - Fred Tipton's email - Cisco/At&T Device	kalexander	07/01/10	57 KB				
<input type="checkbox"/>		056 - V. - Planning Dept. Comments - SBA Towers PWF - 5 Craig Road	planning	07/01/10	53 KB				
<input type="checkbox"/>		057 - V. - Clearwire's Counsel - Davis Wright Tramine LLP - response to Town's Counsel - Sara Schnorr	planning	08/12/10	838 KB				
<input type="checkbox"/>		058 - V. - Quinn comments on cell tower - 8 15 10	kalexander	08/17/10	772 KB				
<input type="checkbox"/>		FYI - 100 - 07.06.2010 PB Minutes - TC Stamped	planning	08/04/10	122 KB				
<input type="checkbox"/>		FYI - 110 - Acton BOA Decision - 273 Great Road	planning	08/04/10	640 KB				
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<input type="checkbox"/>		FYI - 130 - Recreation Commission Minutes 6.4.2010	planning	08/04/10	616 KB				

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